IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 9158 of 2002

Between:

A.Narsaiah s/o.Gangaram
S.G.Teacher, Z.P.S.School,Konapur,

Sarangapoor Mandal Karimnagar Dist.

..... PETITIONER

AND

1. The Director School of Distance Learning and Continuing Education
   Kakatiya University Warangal

2. The Registrar
   Kakatiya University Warangal

3. The Controller of Examinations
   Kakatiya University Warangal

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of *Writ of Mandamus* declaring that the petitioner is entitled for admission into B.Ed. (CCC) Programme of Kakatiya University for in-service Teachers for the academic year 2001-2003 in pursuance of Notification No.100/DP/SDLCE/KU/02, dated 16-2-2002 issue by the Director, School of Distance Learning and Continuing Education, Kakatiya University, Warangal on par with other in-service Teachers who have also submitted application through A.N.L. Parcel Service while holding the action of the respondents in not issuing Hall Ticket to the petitioner to appear for the Entrance Test held on 7-4-2002 with no fault of him while permitting the other similarly situated teachers who have submitted their applications through the same A.N.L.

Service and denying admission to the petitioner for B.Ed (CCC) Programme of Kakatiya University during the academic year 2001-2003 with no fault of the petitioner is as illegal, arbitrary, discriminatory unjust and violative of Articles 14, and 21 of the Constitution besides opposed to all canons of equity, justice and fair play.

For the Petitioner: MR.D.LINGA RAO, ADVOCATE

For the Respondents: MR.B.NARAYANA REDDY, S.C. for KAKATIYA UNIVERSITY

The Court made the following:

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No.9158 of 2002

O R D E R:

The petitioner belongs to Backward Class Community (B.C.-B). After acquiring graduate qualification in Science and obtaining a teacher training certificate, he was appointed as Secondary Grade Teacher on 20.06.1995, after due selection by the District Select Committee. As B.Ed qualification is essential for career advancement for appointment of School Assistant, the petitioner desired to acquire the said qualification also.

The Kakatiya University, Warangal, through its School of Distance Learning and Continuing Education, issued a notification dated 16.02.2002 offering admission to B.Ed. (CCC) Programme for in-service teachers for the academic year 2001-2003. In service teachers possessing a T.T.C. qualification with two years of regular service as on 31.12.2001 who possess a qualification of Graduation in Arts, Commerce or Science and working in Government/Aided/M.P.P./Z.P.P./Recognized Schools in Andhra Pradesh are eligible for applying for the posts. The last date for sale and receipt of application forms was prescribed as 18.3.2002 and the entrance test was scheduled to 7.4.2002.

The petitioner applied for the said posts pursuant to the notification and forwarded his application to the respondents by handing over the application for transmission

to the respondents through the A.N.L. Parcel Service on 16.3.2002. The Parcel service issued him a receipt bearing No.07325990 towards having received the application. The petitioner was also intimated by the parcel service that his application was received by the respondent on 18.3.2002. The petitioner's application was thus received by the respondents within the time stipulated for receipt of applications. The prospectus of the University and the accompanying instructions intimated that the Hall Tickets will be issued at the S.D.L.C.E. Enquiry counter two days prior to the commencement of the test and also on the date of the test at the relevant center, till 10.30a.m.

The petitioner was not issued the Hall Ticket. When he enquired at the S.D.L.C.E. counter he was orally informed that his application was not entered in the relevant register and therefore no hall ticket could be issued to him. His enquiries at the test center also yielded a similar result. As he was deprived from the opportunity of competing at the examination despite the receipt by the respondent, of his application in time and as he was thereby deprived of pursuing the academic programme offered by the respondents, the writ petition is filed for an appropriate declaration and consequential relief.

The first respondent filed a counter-affidavit on his own behalf and on behalf of the respondents-2 and 3 also. It is admitted that the petitioner's application for the entrance test was received on the last date prescribed for the receipt of application i.e. 18.3.2002. What is however contended is that as it was the last date for receipt of applications and hundreds of other applications were also received by the inward section of the school Distance Education, the petitioner's application was not noticed immediately by the Inward section of the first respondent School. The application was mixed up with other applications. Consequently, the application was not entered in the relevant registers, which occasioned the non-issuance of hall tickets to him. Having admitted this failure on the part of its administration, the answering respondent, however, contends that the petitioner has no legitimate claim for admission into the B.Ed Course, as his performance was not tested at the entrance examination. In short, the respondent contended that the petitioner is not entitled to any relief notwithstanding the negligent performance of the public obligations of the respondents.

The above contention/defence urged on behalf of the respondents is stated to be rejected. The respondents a public authority offered the course of B.Ed (CCC) through the Distance Education mode, by a public notification calling eligible citizens to apply. They also received the applications together with the requisite fee of Rs.330/-. Having invited applications and having received the petitioner's application in time, the respondents were obligated to ensure an appropriate administrative apparatus to process the applications and issue the hall tickets to eligible applicants including the petitioner. By the clear and negligent conduct of the respondents, the petitioner was deprived of a valuable opportunity to compete at a selection examination for possible admission to the B.Ed. Course. The petitioner's legitimate expectations were therefore frustrated and subverted by the respondents by what is perceived and admitted to be a clear and negligent conduct.

Two years have passed by since the event occurred by which the petitioner has lost his opportunity to compete for the admission into B.Ed. course. In these circumstances, it would not be proper and in the public interest to direct the respondent University to admit the petitioner into the B.Ed Course or to re-conduct the examination considering the candidature of the petitioner also. Many others who had appeared for the entrance examination, have been successfully there at had obtained admission and pursued the course, would be prejudiced by the uncertainty consequent of such a direction being issued. Since admission to the B.Ed. course even today is based on a process of competitive examination, it would not be in public interest to direct the respondents to admit the petitioner to the current year's course without undergoing the examination. Even otherwise, the petitioner would have lost two years of valuable time for pursuing the course even if he is found eligible by an entrance examination during the current year.

In the peculiar circumstances above and in view of the clear negligent conduct of the respondent, the only appropriate compensation that could be granted for the prejudice and injuries suffered by the petitioner, is to award damages to the petitioner payable by the respondents. As he did not competed the examination it is not possible to infer whether he would have succeeded there at. He is therefore,

suffered a prejudice merely of not being permitted to compete at all. In this factual matrix, this court considers it appropriate to direct the respondents to pay an amount of Rs.10,000/- (Rupees ten thousand only) to the petitioner towards costs/damages/restitution for the injuries suffered by the petitioner i.e., being deprived of the opportunity to complete the B.Ed. course for the academic years 2001-2003 by a clearly negligent act of the respondents. This amount shall be paid by the respondents to the petitioner within a period of one month from the date of receipt of a copy of this order. In this, the respondents shall fail not.

The writ petition is accordingly allowed and in the circumstances, there shall be no order as to costs.

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10.08.2004

*Ksn/Pvsn

This Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Tuesday day the **Tenth day** of **August**, Two thousand **Four**.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Director School of Distance Learning and Continuing Education
   Kakatiya University Warangal

2. The Registrar
   Kakatiya University Warangal

3. The Controller of Examinations
   Kakatiya University Warangal

4. Two C.D. copies

5. One C.C. to Sri B. Narayana Reddy, Advocate

6. One C.C. to Sri D. Linga Rao, Advocate.